

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1882 OF 2003

Mukund Tryambak Phadnis

...Petitioner

V/s

Vidya Vardhini & Ors.

...Respondents.

Mr. M. Mistry instructed by Mr. M.P. Vashi for the Petitioner

None for Respondents No. 1, 2, 4 and 5

Mr. B.V. Phadnis with Mr. R. Rodrigues for Respondent No. 3.

CORAM: V.G. PALSHIKAR, Ag.C.J., &
SMT. NISHITA MHATRE, J.
DATE: FEBRUARY 15, 2006.

P.C.:-

1. The petitioner, by this petition, has impugned two communications issued by the Under Secretary, Government of Maharashtra, and the Joint Director of Higher Education, whereby the petitioner and his employer-college were informed that since the petitioner has voluntarily accepted the part-time

lecturership, there is no question of granting approval to the scale in which the college desires to fit him.

2. In spite of notices, none appears for respondents No. 1, 2, 4 and 5. There is nothing on record to show under what provision of law, these communications impugned are received. Apart from that, when the university and the college are agreeable to grant of a particular scale and status, the Education Officer or the Joint Director of Higher Education may not have any power to so deny the fixation.

3. We, however, make it clear that we are allowing this petition with these observations only because there is no submission on behalf of respondents No. 4 and 5 regarding actual position of the powers of the Government in this regard. We also make it clear that this setting aside of the impugned orders, Exhibits 'I' and 'J' would not be, in any manner, a precedent.

4. The petition is accordingly allowed. Rule is made absolute. The impugned orders are set aside. Respondents No. 1 to 3 to take appropriate steps.